

### **AMENDMENTS TO THE DRAWINGS**

Please amend Figure 1 to replace reference character “2” with reference character “12” for designating the display, thereby correcting for an obvious typographical error. The drawing amendments are described in the application as originally filed and discussed below. No new matter has been added.

## **REMARKS / ARGUMENTS**

### **Status of Claims**

Claims 1-58 are pending in the application and stand rejected. Applicant has canceled Claims 4-6, and has amended Claims 1, 24, 25 and 45-58, leaving Claims 1-3 and 7-58 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §101, 35 U.S.C. §112, first paragraph, 35 U.S.C. §102(b), and 35 U.S.C. §103(a), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

### **Information Disclosure Statement**

The Examiner remarks that the information disclosure statement filed 22 September 2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance of each patent listed that is not in the English language.

Applicant respectfully disagrees that a concise explanation was not submitted.

On 22 September 2004, Applicant filed not only the noted IDS, but also filed a concise explanation of the non-English document listed as FR 2781140. Evidence in support of this filing may be found by the certificate of mailing that was signed by attorney Jay L. Chaskin on the date of filing.

In an effort to maintain an accurate record, Applicant herewith provides a copy of the aforementioned concise explanation filed 22 September 2004.

Accordingly, Applicant respectfully requests that the information referred to therein be considered.

### **Objections to the Drawings**

#### **Regarding Examiner's Paragraph 2**

Figure 1 is objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2" is used in the specification to designate a display, and reference character "12" is used in Figure 1 to designate the same.

Applicant has amended Figure 1 to correct for this obvious typographical error, and thanks the Examiner for bringing this matter to Applicant's attention.

Accordingly, Applicant submits that Figure 1 now complies with 37 CFR 1.84(p)(4), and therefore respectfully requests reconsideration and withdrawal of this objection.

#### **Regarding Examiner's Paragraph 3**

The drawings are objected to under 37 CFR 1.83(a) for failing to show every element of the invention claimed in Claims 45-55, which specifically refer to "an image sensor".

Applicant traverses this objection for the following reasons.

Applicant has amended Claims 45-55 to more particularly claim the subject matter regarded as the invention. More specifically, Applicant has amended the claims so that the language "an image sensor" appears in the preamble and not in the body of the claims, which is consistent with the subject matter regarded as the invention, since it is the means for producing a command signal for commanding the image sensor, rather than the image sensor itself, that is regarded as an element of the invention.

Accordingly, Applicant submits that the claimed invention is commensurate in scope with the level of detail shown in the drawings, and therefore respectfully requests reconsideration and withdrawal of this objection.

### **Objections to the Claims**

The Examiner comments that if Claim 22 should be found allowable, then Claim 24 will be objected to as being a substantial duplicate thereof, and if Claim 21 should be

found allowable, then Claim 25 will be objected to as being a substantial duplicate thereof.

In anticipation of Claims 22 and 21 being found allowable, Applicant has amended Claims 24 and 25 to correct for the claim dependencies that inadvertently created the apparent duplicity of claimed subject matter.

Accordingly, Applicant submits that Claims 24 and 25 are now directed to subject matter that is not a substantial duplicate of Claims 22 and 21, respectfully, and therefore respectfully requests reconsideration and withdrawal of these objections.

#### **Rejections Under 35 U.S.C. §101**

Claims 57 and 58 stand rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. However, the Examiner remarks that if the claims stated “A computer program stored on computer-readable medium”, then the rejection under 35 U.S.C. §101 would be withdrawn.

Applicant appreciates the Examiner’s suggestion for removing this rejection.

In the spirit of the Examiner’s suggestion, Applicant has amended Claims 57 and 58 to more specifically claim the carrier upon which the computer program code exists. Accordingly, the claims are now directed to a computer program carrier rather than a computer program.

Accordingly, Applicant submits that Claim 57 and 58 are now directed to statutory subject matter, and therefore respectfully requests reconsideration and withdrawal of these rejections.

#### **Rejections Under 35 U.S.C. §112, First Paragraph**

Claims 57 and 58 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

The Examiner comments that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the

relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Applicant traverses this rejection for the following reasons.

Applicant has amended the specification to include new Paragraph [0011] that incorporates language found in originally filed claims 57 and 58, thereby providing antecedent support for the subject claim language. No new matter has been added since the language may be found in the originally filed claims.

When considered in its totality, Applicant submits that the application as a whole provides adequate support for the language of Claims 57 and 58, and that the specification contains sufficient descriptive material to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention.

For example, at Paragraphs [0009-0010], Applicant discusses a means for processing, at Figures 1-5 and the accompanying descriptive text, Applicant describes and illustrates an image-processing processor 4, and at amended Paragraph [0011], Applicant describes a computer program carrier for providing executable instructions for execution at the processor 4. As such, Applicant submits that one skilled in would appreciate the scope of invention sought, and would also appreciate that the claims contain subject matter that was described in the specification in such a way as to reasonably convey to them that the inventors, at the time the application was filed, had possession of the claimed invention.

In view of the foregoing, Applicant respectfully submits that the specification complies with the written description requirements of 35 U.S.C. §112, first paragraph, and therefore respectfully requests reconsideration and withdrawal of this rejection.

#### **Rejections Under 35 U.S.C. §102(b)**

Claims 1-44, 56 stand rejected under 35 U.S.C. §102(b) as being anticipated by Ono et al. (U.S. Patent No. 5,588,097, hereinafter Ono).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, ***in a single prior art reference.***” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (Emphasis added). Moreover, “[t]he identical invention must be shown in as complete detail as is contained in the \*\*\* claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements ***“arranged as in the claim.”*** *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984) (Emphasis added). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicant has canceled Claims 4-6 and has amended Claim 1 to include language from Claim 4, such that Claim 1 now recites, inter alia,

“...wherein the means for processing is configured ***to orient*** the 3D model in such a manner that ***the axis*** defined by the two points indicated by the user is ***parallel to the plane of the means for display.***”

Applicant has also amended Claim 56 to include the “parallel” language found in Claim 4.

Dependent claims inherit all of the limitations of the respective parent claim.

Here, Applicant is claiming a means for processing that is configured ***to orient a 3D model such that a defined axis is parallel to the plane of the display.***

In rejecting Claim 4, the Examiner cites Ono by stating that “by defining points P2 and P3 as P0, the angle of rotation  $\alpha$  is zero resulting in a rotation around the O-P0 axis, i.e. parallel to the plane of the means for display.” Paper 20050726, page 9.

While Applicant does not find Ono to recite the specific language referenced by the Examiner, it appears that the Examiner, without specifically stating, is referring to Column 3, lines 60-65, of Ono.

However, contrary to the Examiner's allegation, Applicant finds Ono at Column 3, lines 60-65, to disclose "When point P0 and P1 are the same point on the spherical surface 22, the object rotates about the axis O-P0 by the rotation angle  $\alpha$  by specifying point P0 and then determining points P2 and P3."

Here, Applicant finds Ono to disclose point P0 and P1 being the same point (not P2 and P3 being defined as P0, as alleged by the Examiner), and points P2 and P3 being subsequently determined after rotation of the object about axis O-P0 (again, not P2 and P3 being defined at P0, as alleged by the Examiner).

In comparing Ono with the claimed invention, Applicant finds no disclosure of a means for processing that is configured *to orient a 3D model such that a defined axis is parallel to the plane of the display*.

In the claimed invention, the means for processing is specifically configured to orient the 3D model such that a defined axis in the model is parallel to the plane of the display. Not only does Applicant find Ono to be absent any such disclosure, but Applicant also finds Ono to be silent on any discussion relating to such a controlled orientation.

In alleging anticipation, the Examiner makes a broad reaching statement that appears to redefine the disclosure of Ono (by defining the relationship of points P0, P1, P2 and P3 differently than they are disclosed and used in Ono). In so doing, Applicant respectfully submits that the Examiner has impermissibly modified and then applied the modified Ono for purposes of anticipation.

In view of the foregoing, Applicant submits that Ono does not disclose all of the claimed elements arranged as in the claim, and absent anticipatory disclosure in Ono of each and every element of the claimed invention arranged as in the claim, Ono cannot be anticipatory.

In light of the foregoing amendments and remarks, Applicant submits that Ono does not disclose each and *every element of the claimed invention arranged as claimed* and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that

the Examiner's rejection under 35 U.S.C. §102(b) has been traversed, and requests that the Examiner reconsider and withdraw of this rejection.

**Rejections Under 35 U.S.C. §103(a)**

Claims 45-55 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ono in view of Gillio (U.S. Patent No. 5,704,791, hereinafter Gillio).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest *each and every element of the instant invention so as to perform as the claimed invention performs*. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Claims 45-55 depend from Claim 1, either directly or indirectly, Applicant has canceled Claim 4 and amended Claim 1 with language therefrom to traverse the anticipation rejections with respect to Ono, and the Examiner does apply Gillio to reject Claims 1 or 4, under either anticipation or obviousness. Accordingly, and for at least these reasons, Applicant submits that Claims 45-55 are allowable over Ono, that Gillio fails to cure the deficiencies of Ono, and therefore that Claims 45-55 are allowable over Ono in view of Gillio.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all



rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §101, 35 U.S.C. §112, first paragraph, 35 U.S.C. §102(b), and 35 U.S.C. §103(a), have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

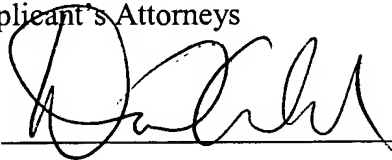
The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

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